

REMARKS

In response to the Restriction Requirement mailed October 5, 2006, applicants elect with traverse to have the claims of Group I (claims 1-10) examined in the subject application. Applicants reserve the right to file one or more divisional applications directed to the non-elected claims.

Reconsideration is respectfully requested of the restriction requirement and, in particular, of the reason stated in the Office action for the restriction requirement. It is stated in the Office action that the invention as claimed by the elected claims is distinct from the invention as claimed in non-elected claims. However, groups I, II and III relate to the same invention. Applicants submit that all three groups should be classified in class 707, subclass 8. Contrary to the examiner's assertion, claims 1-10 should be classified with claims 11-16 in subclass 8. Also, claims 17-25 do not get classified with respect to distributed data access in subclass 10 and should be classified with claims 11-16 in subclass 8. Thus, claims 1-25 should all be in the same group and should all be examined simultaneously.

The Examiner is requested to indicate why these claims, all of which relate to data concurrency, should be classified in three different subclasses, or withdraw the restriction regarding claims 1-25.

In addition, Applicants respectfully ask the Examiner to consider that even if the Examiner indeed believes that the inventions are distinct, are such inventions materially different from a search perspective? Applicants respectfully submit that for purposes of issuing a restriction requirement any such inventions cannot fairly be said to be materially different.

Applicants also ask the Examiner to consider the relative burdens on the Examiner and the Applicants. In order for a reliable search to be conducted for either group of claims, the same classes will have to be searched. Accordingly, maintaining all claims in the application should not add more than a minimal burden. In this regard, the Examiner is asked to consider MPEP 803:

"If the search and examination can be made without serious burden, the examiner must examine it on the merits, even if it includes claims to distinct or independent inventions."
(emphasis added)

Applicants respectfully submit that the burden of examining the additional claims having an overlapping search field cannot fairly be said to be "serious." In contrast, Applicants would

incur filing and issue fees of about \$1000 or more and maintenance fees of about \$3000 or more if required to prosecute and maintain a second application/patent, such fees being in addition to the similar fees to be incurred in this first application.

In view of the foregoing, Applicants respectfully ask the Examiner to revise the restriction requirement and consider claims 1-25 in one group.

Respectfully submitted,

/Frank R. Agovino/

Frank R. Agovino, Reg. No. 27,416
SENNIGER POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400